



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2013-0339]

Request for Public Comment on New Proposed Categorical
Exclusion for Real Property Disposal under the National
Environmental Policy Act

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: This is a notice and request for comments on a
Proposed New Categorical Exclusion for Real Property
Disposal. This proposal would amend the Coast Guard
Commandant Instruction and Department of Homeland Security
Directive used to comply with the National Environmental
Policy Act by establishing a new categorical exclusion
(CATEX) for real property disposal undertaken by the United
States Coast Guard. The Coast Guard seeks comments on this
proposed CATEX.

DATES: Comments and related material must either be
submitted to our online docket via
<http://www.regulations.gov> on or before [INSERT DATE 30 DAYS
AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or reach

the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2013-0339 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor,
Room W12-140, 1200 New Jersey Avenue SE, Washington, DC
20590-0001.

(4) Hand delivery: Same as mail address above,
between 9 a.m. and 5 p.m., Monday through Friday, except
Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Ms. Kebby Kelly, United States Coast Guard Office of Environmental Management; telephone 202-475-5690, e-mail Kebby.Kelley@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the proposed new Coast Guard Categorical Exclusion (CATEX) for real property disposal. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG-2013-0339) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, insert (USCG-2013-0339) in the Search box, look for this notice in the docket and click the comment button next to it. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose

a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing comments and supporting material: To view comments, go to <http://www.regulations.gov>, insert (USCG-2013-0339) in the Search box, then click on the "Open Docket Folder" option. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Background

The Coast Guard has determined that a new CATEX is needed to cover two new real property disposal authorities

specific to the Coast Guard. In the past, the Coast Guard exclusively used the process established by the General Services Administration (GSA) to dispose of excess real property, unless specifically directed otherwise by Congress. Because the Coast Guard previously worked through the GSA for property disposal, the GSA was able to use its CATEX to fulfill obligations under the National Environmental Policy Act (NEPA). Recently, Congress passed two pieces of legislation that directly authorize DHS and the Coast Guard to dispose of real property through sale and keep the proceeds for use in specific Coast Guard programs.

Specifically, the Coast Guard has been granted authority to dispose of property previously used for Long Range Navigation (Loran-C) equipment. The Coast Guard has also been granted the authority to dispose of real property in order to pay for military family and military unaccompanied housing projects. The Coast Guard seeks to add a CATEX that contains the same language as the GSA's CATEX that will allow the Coast Guard to satisfy its NEPA obligations when disposing of excess real property.

The Department of Homeland Security Appropriations Act, 2010 (Public Law 111-83), authorizes the Coast Guard to sell any real and personal property under the administrative control of the Coast Guard and used for the Loran-C system, by directing the Administrator of GSA to sell such real and

personal property. This is allowed, provided that the proceeds, less the costs of sale incurred by the GSA, shall be deposited as offsetting collections into the "Coast Guard Environmental Compliance and Restoration" account and, subject to appropriation, shall be available until expended for environmental compliance and restoration purposes associated with the Loran-C system.

Additionally, Congress passed 14 U.S.C. 685, Conveyance of Real Property (January 7, 2011), which states that notwithstanding any other provision of law, the Secretary of the respective department in which the Coast Guard is operating (Secretary) may convey, at fair market value, real property, owned or under the administrative control of the Coast Guard, for the purpose of expending the proceeds from such conveyance to acquire and construct military family housing and military unaccompanied housing. The conveyance of real property under this section shall be by sale, for cash. The Secretary shall deposit the proceeds from the sale in the Coast Guard Housing Fund.

This proposal is to add the following Coast Guard-specific CATEX to the existing list of CATEXs published in Coast Guard Commandant Instruction 16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, and to the DHS

Environmental Planning Program Directive 023-01 (71 FR 16790):

*[L64] Disposal of real property (including facilities) by the Coast Guard where the reasonably foreseeable use will not change significantly or where the reasonably foreseeable use is similar to existing surrounding properties (e.g. commercial store in a commercial strip, warehouse in an urban complex, office building in downtown area, row house or vacant lot in an urban area).

The asterisk (*) indicates application of this CATEX requires the completion of an environmental review of the proposed disposal action documented in a Record of Environmental Consideration to ensure extraordinary circumstances have been appropriately considered. The availability of this CATEX does not exempt the applicability of other environmental requirements such as, but not limited to, section 7 of the Endangered Species Act, section 106 of the National Historic Preservation Act, and the Migratory Bird Treaty Act. These requirements must be met regardless of the applicability of this CATEX under NEPA.

The Council on Environmental Quality (CEQ) guidance entitled, "Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act" (February 18, 2010) encourages agencies to establish new

CATEXs and revise existing CATEXs to eliminate unnecessary paperwork and effort reviewing the environmental effects of categories of actions that, absent extraordinary circumstances, do not have significant environmental effects. Without a CATEX for real property disposal, DHS and the Coast Guard would have to prepare an Environmental Assessment for every action of this type, including those that experience has shown do not typically have the potential for significant environmental impacts. Therefore, DHS and the Coast Guard need a CATEX for these types of actions that experience has shown do not have significant environmental impacts in order to carry out its new legislative authorities in a timely and efficient manner.

The CEQ guidance also states that when substantiating a new or revised CATEX, agencies can draw on several sources of supporting information. These sources include professional staff and expert opinion and benchmarking other agencies' experiences. Through a review of other agencies' NEPA procedures, the Coast Guard and DHS found that numerous other Federal agencies have CATEXs for real property disposal activities that are sufficiently descriptive of the activity as to establish that those activities were similar in nature, scope, and impact on the human environment as those real property disposals that would be performed by the Coast Guard. In addition, all Federal agencies, with very

few exceptions, must meet the same requirements to protect the environment.

Particular agency CATEXs examined by the Coast Guard include those used by the GSA and the Department of the Army. DHS also received expert opinions from NEPA practitioners at GSA and the Department of the Army that supports this proposed new CATEX for the disposal of real property (including facilities) by the Coast Guard.

Descriptions of the other agency CATEXs (with hyperlinks) and expert opinions obtained are provided in the administrative record available at <http://www.regulations.gov> by searching docket number USCG-2013-0339.

This notice is issued under authority of: 5 U.S.C. 552(a); 42 U.S.C. 4321 et seq.; 40 CFR 1500-1508; Department of Homeland Security Management Directive 023-01 Environmental Planning Program; and United States Coast Guard Commandant Instruction M16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts.

Dated: May 13, 2013

J. Smith
Chief, Office of Environmental Management
U.S. Coast Guard

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